

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FRED PROCTOR,

Plaintiff,

v.

Case Number: 2:11-cv-14687  
Honorable Victoria A. Roberts

THE HONORABLE RAE LEE CHABOT  
and JESSICA COOPER,

Defendants.

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**ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION**

This is a prisoner civil rights case under 42 U.S.C. § 1983. On December 21, 2011, the Court dismissed Plaintiff's Complaint, finding that it was barred by *Heck v. Humphrey*<sup>1</sup> and the *Rooker-Feldman*<sup>2</sup> doctrine, and that Defendants were immune from suit because the claims all related to their performances with respect to Plaintiff's criminal trial. *Proctor v. Chabot*, No. 2:11-cv-14687, 2011 WL 6655694 (E.D. Mich. Dec. 21, 2011). Pending before the Court is Plaintiff's Motion for Reconsideration, filed on January 12, 2012, signed and dated January 5, 2012. The Court will deny the Motion.

Eastern District of Michigan Local Rule 7.1(h) provides that a motion for reconsideration only should be granted if the movant demonstrates that the Court and the parties have been misled by a palpable defect and that a different disposition of the case must result from a correction of such a palpable defect. E.D. Mich. LR 7.1(h)(3). A motion that merely presents

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<sup>1</sup>512 U.S. 477 (1994).

<sup>2</sup>*Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of Columbia Ct. of App. v. Feldman*, 460 U.S. 462 (1983)).

the same issues already ruled upon by the Court will not be granted. *Id.* Similarly, motions to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e) may be granted only if there is a clear error of law, newly discovered evidence, an intervening change in controlling law, or to prevent manifest injustice. *GenCorp., Inc. v. Am. Int'l Underwriters*, 178 F.3d 804, 834 (6th Cir. 1999). A motion brought pursuant to Local Rule 7.1(h) must be filed no later than fourteen days after entry of the judgment or order. E.D. Mich. LR 7.1(h)(1). A motion brought pursuant to Rule 59(e) must be filed no later than twenty-eight days after the entry of the judgment. Fed. R. Civ. P. 59(e).

As an initial matter, Plaintiff's Motion is untimely under the Local Rule, by one day. Thus, it can be denied on that ground. However, under the Federal Rule, Plaintiff's Motion is timely. It was filed within twenty-eight days of the Court's December 21, 2011 Dismissal Order. The Court finds that Plaintiff's Motion is timely under the Federal Rule.

Having reviewed Plaintiff's Motion, the Court finds that it does not present a basis for reaching a different outcome. Plaintiff fails to present any arguments in his Motion demonstrating a palpable defect in the Court's prior decision, an error of law, newly discovered evidence, a change in controlling law, or manifest injustice warranting relief. The Court denies Plaintiff's Motion for Reconsideration.

IT IS SO ORDERED.

S/Victoria A. Roberts  
Victoria A. Roberts  
United States District Judge

Dated: February 15, 2012

The undersigned certifies that a copy of this document was served on the attorneys of record and Fred Proctor by electronic means or U.S. Mail on February 15, 2012.

s/Caryl A. Pinegar  
Deputy Clerk